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ORANGE COUNTY

## Mother sues Chapel Hill-Carrboro schools over alleged kindergarten assaults, bullying

BY TAMMY GRUBB

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A lawsuit filed in November 2022 accuses Chapel Hill-Carrboro school administrators of dismissing assault and bullying allegations involving elementary students. GOOGLE STREET VIEW



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A lawsuit filed in November accuses Chapel Hill-Carrboro school officials of dismissing allegations that a male kindergarten student bullied and assaulted a female classmate in 2019.

The lawsuit claims the 5-year-old girl faced repeated harassment, sexual assault and bullying from the boy at Frank Porter Graham Bilingüe Elementary School. The male student was not removed from class or disciplined, and neither school nor district officials followed their policies for handling assault reports, the lawsuit states.

Although the mother is named in the lawsuit, The News & Observer is not making her name public to protect the identity of the child. The lawsuit only refers to the child by initials.

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The “abuse and bullying was so severe, pervasive, and objectively offensive that (the student) experienced a hostile educational environment creating a disruption in her education,” it states, adding that the school’s negligence in following up when notified about the assaults caused the child to suffer “extreme mental and emotional anguish.”

The child also was denied equal access to a public school education and protection under both state and federal law and school policies, violating her rights under Title IX and the Equal Protection Clause of the 14th Amendment, it states.

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The child’s family is seeking compensation for medical costs and private school tuition and fees, as well as punitive damages.

Chapel Hill-Carrboro district spokesman Andy Jenks declined to answer questions about the lawsuit in an email response Thursday to The News & Observer.

“The school district is aware that this lawsuit has been filed, but we cannot comment on the allegations it contains, which relate to matters that are confidential by law,” Jenks said in his email.

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### **ASSAULT ALLEGATIONS, DISTRICT RESPONSE**

The allegations first surfaced on Nov. 1, 2019, when the mother realized her daughter was injured and learned a male classmate had touched her inappropriately on the playground during recess, according to the lawsuit.

The mother contacted FPG Principal Emily Bivins, who retired from the district in 2020, and Assistant Principal Karen Galassi-Ferrer. She took her daughter to a UNC urgent care clinic, where a doctor found bruises, and contacted the school again a few days later, because officials had not responded, the lawsuit says.

She asked the school to acknowledge the assault and implement a safety plan before letting her daughter return to class, it states. A school counselor later gave a “safe touch” lesson to the class, but the male student was allowed to remain and also went on a field trip, which the female student did not feel safe attending, the lawsuit states.

The child’s mother then emailed district officials, and Erika Newkirk, senior executive director of human resources, called to talk about the allegations, the lawsuit states. Still, no changes were made, and the child remained at home until late November, when her mother learned that the teacher and assistant teacher were supervising recess and in-school therapy was available, it states.

But before the girl returned to class, she told her babysitter about other alleged assaults, which the mother then reported to the school. School officials told the mother she could remove both of her children from the school, the lawsuit states.

### EXHIBIT 1

The child returned to class, where she had to face her male classmate daily. She told her therapist the boy “threatened her again on the playground and that no teachers were around to report to,” the lawsuit states.

By that time, her mother had learned about a similar case involving a first-grader at Frank Porter Graham and that school officials had responded “with a similar dismissive response,” according to the lawsuit. The girl’s mother enrolled her daughter in a private school, according to a news release that The N&O received from a spokesperson.

The first-grader’s father and other relatives spoke publicly at a November 2019 school board meeting about their experience.

Security and supervision should be the top priorities for the district, the first-grader’s father said. He and his girlfriend, who also spoke, visited the school multiple times to monitor what was going on, he said.

“We really don’t appreciate the way things were handled and the response that we got ... there was no sense of urgency,” he said.

“We really want to see you guys, as a school board, somebody, to just listen to us and hear us out, and put forth in place a plan or policy or something to give us some type of security, some type of relief in our minds so that we can send our child to school and wouldn’t have to worry about her being sexually assaulted or anything like (that),” he said.

## EXHIBIT 1

The N&O's efforts to reach Bivins by phone were unsuccessful.

### PREVIOUS PROBLEMS

The Chapel Hill-Carrboro City Schools district did not report any assaults or sexual offenses committed against students at Frank Porter Graham or Estes Hills between 2011 and 2021, according to annual reports filed with the N.C. Department of Public Instruction.

However, the district faced a similar lawsuit in 2012, when the parents of [three students at Estes Hills Elementary School alleged they had been sexually assaulted](#). A school mental health clinician who uncovered the alleged assaults supplied an affidavit in that case.

In the affidavit, clinician Talya Mazor said one of the students told her that he and the two others were “repeatedly sexually abused” by two older students on a school bus between 2009 and 2011.

The claims were supported in a separate affidavit by teacher Lucy Hayes, who left the school in 2013, The N&O has reported. Hayes said she was told to “stay out of it” when the student told her that he and others had been inappropriately touched, and that it “was being handled.”

The school removed the accused child from the bus and added a monitor, Hayes said, but she was not aware of other steps the district took to improve student safety or to let the children's parents know what happened.

Based upon her knowledge, Hayes said in her statement, “Chapel Hill-Carrboro City Schools was deliberately indifferent to actual knowledge of inappropriate and unwanted sexual conduct toward and among elementary school students.”

That is even more concerning, the mother who filed last month's lawsuit said in a news release.

### THE ORANGE REPORT

## EXHIBIT 1

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